

## ENVIRONMENTAL PROTECTION COMMISSION[567]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 455B.304, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 119, "Waste Oil," Iowa Administrative Code.

These amendments are being proposed to incorporate the changes made to Iowa Code section 455D.13 as amended by 2008 Iowa Acts, House File 2668. This legislation requires retailers that sell oil filters to post a sign informing their customers of the nearest collection site for used oil filters. It also requires businesses to recycle the used oil filters that they generate.

The proposed changes to Chapter 119 include the addition of collection requirements for used oil filters, the addition of signage requirements for filter retailers, updates to the signage requirements for oil retailers, removal of some of the Department's responsibilities, and rescission of the state procurement regulations. The amendments also change the term "waste oil" to "used oil" to be consistent with Iowa Code section 455D.13 as amended by 2008 Iowa Acts, House File 2668, and EPA regulations.

Any interested person may make written suggestions or comments pertaining to the proposed amendments on or before 4:30 p.m. on October 28, 2008. Such written materials should be directed to Kathleen Hennings, Land Quality Bureau, Iowa Department of Natural Resources, 502 East 9th Street, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515)281-8646; or E-mail [Kathleen.Hennings@dnr.iowa.gov](mailto:Kathleen.Hennings@dnr.iowa.gov). Persons wishing to convey their views orally should contact Kathleen Hennings by telephone at (515)281-5859.

When submitting comments, stakeholders are encouraged by the Department to utilize the following guidelines. These guidelines aid the Department in accurately understanding and creating a record of your input.

1. Include your mailing address and contact information.
2. Please state if you are submitting comments on behalf of a business or organization or as an individual.
3. Cite the specific rule(s) on which you are commenting.
4. Explain your views as clearly as possible by describing any assumptions, data, or technical information you utilized.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative language to improve the specific rule(s) and explain why.

A public hearing will be held on October 28, 2008, at 1 p.m. in the Fifth Floor West Conference Room of the Wallace State Office Building, 502 East Ninth Street, Des Moines, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Natural Resources to advise of specific needs.

These amendments are intended to implement 2008 Iowa Acts, House File 2668.

The following amendments are proposed.

ITEM 1. Amend **567—Chapter 119**, title, as follows:

**WASTE USED OIL AND USED OIL FILTERS**

ITEM 2. Amend rule 567—119.1(455D,455B) as follows:

**567—119.1(455D,455B) Authority, purpose, and applicability.**

**119.1(1) Authority.** Pursuant to Iowa Code sections 455D.7(1), 455D.6(6), and 455B.304, the environmental protection commission is given the authority to adopt rules regulating the disposal, collection, recycling and reuse of ~~waste used oil and used oil filters~~.

**119.1(2) Purpose.** The purpose of these rules is to protect the public health and the environment by regulating the disposal and collection of ~~waste used oil and used oil filters~~ and to promote the reuse and recycling of used oil ~~which is a limited energy resource and used oil filters~~.

**119.1(3) Applicability.** The provisions of this chapter apply to oil retailers, oil filter retailers, sanitary disposal project permittees, ~~and persons involved in the collection of waste used oil, and persons involved in the generation or collection of used oil filters~~.

ITEM 3. Amend rule 567—119.2(455D,455B) as follows:

**567—119.2(455D,455B) Definitions.** The following definitions apply to the provisions of this chapter:

**“Contaminated”** means ~~waste used~~ oil mixed with hazardous waste as defined by the resource conservation and recovery Act or with incompatible wastes including, but not limited to: antifreeze, solvents, paints, pesticides, or household hazardous materials. Minimal amounts of vehicle fuel shall not be considered an incompatible waste.

**“Customer”** means any individual who purchases oil or oil filters or generates ~~waste used oil or used oil filters~~ for personal or family purposes, including a farmer or a farm household.

**“Department”** means the department of natural resources.

~~“Division” means the land quality and waste management assistance division of the department.~~

~~“Lubricating oils” means engine lubricating oils, hydraulic fluids and gear oils, excluding marine and aviation oils.~~

**“Recycling Used oil recycling”** means the preparation of used oil for reuse as a petroleum product by rerefining, reprocessing, reclaiming, or other means or to use used oil as a substitute for a petroleum product made from new oil, provided that the preparation or use is operationally safe, environmentally sound, and complies with all federal and state laws.

**“Retailer”** means a person offering for sale or selling a petroleum-based or synthetic oil or oil filter to the ultimate consumer or user of the product, as an over-the-counter product or whereby the consumer is charged separately for the oil ~~product~~ or oil filter when coupled with a service.

**“Tank”** means a closable stationary or mobile device designed to contain an accumulation of ~~waste used~~ oil and constructed of nonearthen materials (e.g., concrete, steel, plastic) that provide structural support.

**“Used oil filter”** means a filter that removes impurities from the oil used to lubricate an internal combustion engine and has been used for its intended purpose.

**“Used oil filter recycling”** means the preparation of used oil filters for steel recovery.

**“~~Waste~~ Used oil”** means any petroleum-based or synthetic oil which through its use, storage, or handling has become unsuitable for its original purpose due to the presence of chemical or physical impurities. ~~Waste Used~~ oil includes, but is not limited to, the following:

1. Spent lubricating fluids which have been removed from an engine crankcase, transmission, gearbox, or differential of an automobile, bus, truck, vessel, plane, heavy equipment, or machinery powered by an internal combustion engine.

2. Spent industrial oils, including compressor, turbine, bearing, hydraulic, metalworking, electrical, and refrigerator oils.

~~Waste Used~~ oil does not include oil which has been contaminated or contains PCBs of 5ppm or greater.

**“~~Waste~~ Used oil collection site”** means any commercial, municipal, or nonprofit establishment or operation which has a ~~waste used~~ oil collection tank on the premises, and accepts ~~waste used~~ oil for temporary storage prior to the recycling of that which is collected.

~~“Waste~~ Used oil collector” means any sanitary landfill operator, sanitary disposal project operator, oil retailer, or other individual who operates a ~~waste~~ used oil collection site.

ITEM 4. Amend rule 567—119.3(455D,455B) as follows:

**567—119.3(455D,455B) Prohibited disposal.**

**119.3(1)** ~~Waste~~ Used oil shall not be accepted for final disposal at any sanitary landfill. However, a sanitary landfill or sanitary disposal project, as defined in Iowa Code section 455B.301, may accept ~~waste~~ used oil for temporary storage or collection if the ultimate disposition of the oil is for recycling or reuse. All necessary permits or permit conditions must be obtained prior to the storage or collection of ~~waste~~ used oil at these landfills and projects.

**119.3(2)** ~~Rescinded IAB 8/18/93, effective 9/22/93.~~ A business that generates used oil filters or accepts used oil filters from a person shall not dispose of the used oil filters in a sanitary landfill and shall source separate and recycle the used oil filters.

ITEM 5. Rescind rule 567—119.4(455D,455B) and adopt the following new rule in lieu thereof:

**567—119.4(455D,455B) Operational requirements for acceptance of used oil.** Any person accepting used oil from customers shall comply with the following requirements:

**119.4(1)** Used oil shall be accepted which is contained in a closed, unbreakable, preferably reusable, container.

**119.4(2)** Used oil collectors shall provide supervision of the collection process to minimize the risk of spills and to prevent customers from depositing contaminated used oil into the collection tank. However, this does not preclude designating unsupervised drop-off sites for used oil as long as the following conditions are met:

- a. Only sealed containers of five gallons or less shall be accepted.
- b. The designated drop-off site must be protected from the elements.
- c. Customers shall drop off their used oil in containers at the designated site and are not permitted to deposit their used oil into a collection tank.
- d. The designated site must be located on an impervious surface engineered to contain potential spills.

**119.4(3)** During noncollection hours, the tank must be secured to prevent the contamination of the collected used oil.

**119.4(4)** A sign shall be placed on or near the used oil collection tank which includes the statement: This tank is for used oil collection only. The depositing of other materials is prohibited.

**119.4(5)** Collectors of used oil shall ensure that the ultimate disposition of used oil collected is for recycling and reuse.

**119.4(6)** Used oil found to be contaminated shall be managed as a hazardous waste. There is no obligation to accept contaminated oil.

**119.4(7)** Used oil collectors shall comply with Iowa Code section 455B.386 when actual or imminent oil spills pose a threat to the public health or the environment.

**119.4(8)** Absorbent material shall be available at the site for use by the operator to control spillage or discharge of used oil.

ITEM 6. Adopt the following new rules **567—199.5(455D,455B)** to **567—119.7(455D,455B)**:

**567—119.5(455D,455B) Operational requirements for acceptance of used oil filters.** Any person accepting used oil filters from customers shall comply with the following requirements:

**119.5(1)** The used oil filters shall be collected, stored and transported in a container designed and maintained to prevent the spillage or discharge of used oil from the filters.

**119.5(2)** The collection container shall be located on an impervious surface engineered to contain spills.

**119.5(3)** The collection container shall be protected from inclement weather.

**119.5(4)** The collection container shall be clearly labeled “used oil filters.”

**119.5(5)** Used oil filter collectors shall comply with Iowa Code section 455B.386 when actual or imminent oil spills pose a threat to the public health or the environment.

**119.5(6)** Absorbent material shall be available at the site for use by the operator to control spillage or discharge of used oil from the used oil filters.

**567—119.6(455D,455B) Oil retailer requirements.** In addition to the requirements set forth in rules 119.4(455D,455B) and 119.5(455D,455B) relating to used oil and used oil filter collection, used oil retailers also shall comply with the following:

**119.6(1)** A durable, legible sign at least 8½" by 11" in size shall be placed near the point of sale which contains the following:

- a. Language informing the customer that it is unlawful to dispose of used oil at a sanitary landfill, and that the customer should return used oil to used oil collection sites for recycling and reuse;
- b. The language "RECYCLE USED OIL" in bold lettering;
- c. A list of the benefits from recycling used oil including, but not limited to, "conserves energy, reuses limited resources, and protects Iowa's drinking water";
- d. The language "used oil is a household hazardous material" and the household hazardous materials program symbol, at least 2 inches in length, as shown below;



e. The warning that the disposal of used oil in a landfill or its deposit or discharge into any state waterway is unlawful;

f. The name, address and location of at least one used oil collection site located within the county in which the retailer is located. If there is more than one used oil collection site located in the county, then the nearest collection site shall be listed on the posted sign.

**119.6(2)** Retailers may obtain the required signs upon request from the department. Retailers choosing to develop and post their own signs must obtain a variance from the departmental rules. Signs must be at least 8½" by 11" in size and contain the information stipulated above. To request a variance, retailers should forward to the department for review the sign they wish to substitute for the departmental sign.

**119.6(3)** Retailers are not required to collect used oil generated by commercial or municipal establishments.

**119.6(4)** Used oil shall be accepted during normal business hours.

**119.6(5)** Those retailers who do not sell any other household hazardous materials except for motor oil may comply with the household hazardous materials informational sign posting requirement of 567—Chapter 144 through compliance with subrule 119.6(1).

**567—119.7(455D,455B) Oil filter retailer requirements.** In addition to the above requirements set forth in rules 119.4(455D,455B) to 119.6(455D, 455B) relating to used oil and used oil filter collection, oil filter retailers also shall comply with the following:

**119.7(1)** A durable, legible sign at least 8½" by 11" in size shall be placed near the point of sale which contains the following:

- a. The language "RECYCLE USED OIL FILTERS" in bold lettering;
- b. A list of the benefits from recycling used oil filters including, but not limited to, "conserves energy, reuses limited resources, and protects Iowa's drinking water";
- c. The language "used oil filters are a household hazardous material" and, at least 2 inches in length, the household hazardous materials program symbol as shown below;



d. The name, address and location of at least one used oil filter collection site located within the county in which the retailer is located. If there is more than one used oil filter collection site located in the applicable county, then the nearest collection site shall be listed on the posted sign.

**119.7(2)** Retailers who choose to collect used oil filters shall accept used oil filters generated by residential households or farmers, but are not required to collect used oil filters generated by commercial or municipal establishments.

**119.7(3)** Used oil filters shall be accepted during normal business hours.

**119.7(4)** Those retailers who do not sell any other household hazardous materials except for oil filters may comply with the household hazardous materials informational sign posting requirement of 567—Chapter 144 through compliance with subrule 119.7(1).

ITEM 7. Renumber rules **567—119.5(455D,455B)** and **567—199.6(455D,455B)** as **567—119.8(455D,455B)** and **567—119.9(455D,455B)**.

ITEM 8. Rescind rules **567—119.7(455D,455B)** and **567—119.8(455D,455B)**.

ITEM 9. Amend renumbered rule 567—119.8(455D,455B) as follows:

**567—119.8(455D,455B) Tanks.**

**119.8(1) Aboveground.** In addition to the requirements imposed by the office of the state fire marshal, the following standards are applicable to aboveground ~~waste used~~ oil collection tanks:

a. The tank shall be of sufficient size to handle the projected quantities of used oil to be returned to this specific collection site.

b. The tank shall be designed and maintained to prevent the spillage or discharge of ~~waste used~~ oil. Tanks must be set upon an impermeable surface engineered to contain potential spills.

c. Absorbent material shall be available at the tank site for use by the operator to control ~~waste used~~ oil spillage or discharge.

d. The tank shall have a level gauge or some other adequate means for checking the oil level within the tank.

e. The tank shall be constructed in accordance with American Petroleum Institute specifications and standards.

**119.8(2) Underground.** Underground storage tanks used to collect or store ~~waste used~~ oil shall comply with the standards in part 8 of division IV of Iowa Code chapter 455B, entitled “Underground Storage Tanks,” and the promulgated rules, Iowa Administrative Code, 567—Chapters 135 and 136.

ITEM 10. Amend renumbered rule 567—119.9(455D,455B) as follows:

**567—119.9(455D,455B) Locating collection sites.** If the retailer is unaware of any locations within the county where ~~waste used~~ oil is or used oil filters are being accepted from customers, ~~then the retailer shall cooperate with other retailers to identify a waste oil collection site for customers. To identify a waste oil collection site, retailers should consider recruiting an operator of a facility which already has the means to collect waste oil. If through this cooperative effort no sites can be identified, then the retailer should consider accepting waste oil from customers according to the standards listed in this chapter. the retailer shall contact the department to determine if a collection site is located in the county. If no collection site is currently available in the county, the retailer shall accept used oil and used oil filters from customers.~~

ITEM 11. Amend **567—Chapter 119**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 455D.6(6) and 455D.13 as amended by 2008 Iowa Acts, House File 2668, and chapter 455B, division IV, part 1.